

Minutes – Support Issues Committee Meeting

Annual Meeting, Boca Raton Hotel and Resort

June 18, 2008

In attendance:

Magistrate Barbara Beilly

Eric Bruce

Luis E. Insignares

Magistrate Diane Kirigin

Judy Shearer

Heather Apicella

Andrea Reid

Magistrate Maria Keebler

Ashley Myers

Maria C. Gonzalez

Angel Bello-Bellini

Richard Dehmer

Magistrate Chantale Suttle

Magistrate Robert Jones

Jeff Wasserman, AJ Rohe, Rhoda Sokoloff, Isabell Loomis, Carin Porras, Magistrate Norberto Katz, Magistrate Harvey Baxter, Steven Berzner, Robert Rodriguez, Jeff Conner, Diksha Mehon, Sheena Benjamin-Wise, Christina Hathaway, Jack A. Moring, Scott Rubin, Doug Greenbaum.

I. WELCOME AND CALL TO ORDER BY CHAIR

Chair Barbara Beilly called the meeting to order at 2:00 pm. A list of the 2007-2008 committee members was passed around. Committee members were asked to look at the list to find their name and make any changes. The Chair explained that all committees of the Bar are inclusive so if members wanted to continue on the committee all that was required was to put a check mark next to ones name to continue. If a person wants to be on the committee all that was necessary was to add their name to the list.

## II. RECOGNITION AND THANK YOU TO OFFICERS AND SUB-COMMITTEE CHAIRS –

Chair Barbara Beilly recognized and thanked all the officers of the 2007-2008 support issues committee and all of the Sub-committee chairs for their work on the committee

## III. APPROVAL OF MINUTES

The minutes from the 3-25-08 and 4-10-08 meetings were reviewed.

Jack Mooring made a Motion that the minutes be approved. Magistrate Kirigin seconded the Motion.

No one was opposed and there were no abstentions. The Motion to approve carried unanimously.

## IV. OLD BUSINESS

Once again Chair Barbara Beilly thanked the leadership of the committee and the various sub-committee chairs.

Two statutes that the Committee recommended were discussed.

Temporary Modification of Child Support statute went through but was not included in the child support bill considered in this year's legislative session. Hopefully it will be in the child support bill in next year's session. That is old business that was approved.

Temporary child custody modification Statute due to military service. This particular statute did not address child support. The support issues committee drafted the child support provision. The proposed statute passed the legislation committee and Executive Council but was not part of the child support bill for this year. Hopefully it will be part of the child support bill for next year. (Chair's correction – it actually was part of Session law 2008-61; no further work is required)

Some sub-committees are continuing. The sub-committees list was passed along to see if any members wished to join. It is easy to participate since most are conducted by phone.

## V. REPORTS AND UPDATES FROM SUB-COMMITTEES

### PAYMENTS TOWARD ARREARS/INTEREST SUB-COMMITTEE REPORT

Heather Apicella is the chair of this sub-committee. It was noted that Heather did an outstanding job chairing the sub-committee

#### **61.14(6)(d)**

Heather gave a brief background on the Vitt v. Rodriguez issue. Essentially the committee had two competing bands. One group proposed the language contained in SB 1152/HB 7073 in which the payment of interest on arrears payments should first be applied towards the current support, then towards any principal amount due, and then towards interest on the support judgment. The second group proposed following the exact language as outlined in the Vitt v. Rodriguez decision, in which the payment of interest on arrears payments should first be applied towards current support due, then towards interest on the delinquent support obligations, then towards the principal amount due.

Heather pointed out that during the subcommittee telephonic meeting on this issue, and also during the Support Issues telephonic meeting on this issue, the debates concerning the language were very heated.

Heather Apicella made a **Motion** to add a new sentence to §61.14(6)(d) which mirrors the language which passed the legislature in HB7073, by changing the words from “child support” to “alimony or spousal support.” Heather explained that the handout containing the proposed new sentence to §61.14(6)(d) also reflects the language already passed by the legislature (which she was not asking the committee to delete) in bold. Heather pointed out that the language which passed the subcommittee, which they are now asking this Committee to approve is underlined.

No second needed per chair Barbara Beilly.

A discussion on the Motion ensued. Some members felt that to make the suggested change in order to be consistent with the alimony language the change would be inconsistent

Angel Bello-Bellini argued that the change in language was necessary in order to bring harmony and coordination into the statute.

Chair Barbara Beilly commented that the Department of Revenue wants the language in the Vitt decision and, therefore, the new language is not likely to be changed.

No further suggestions or questions ensued.

A vote was taken. The majority voted Yes. AJ Rohe voted No.

The Motion passed.

**§61.14 (12) and §742.08**

Heather made a **Second Motion**, on behalf of the subcommittee, asking that this Committee add the proposed language on the handout, which will allow for enforcement of interest on child support, alimony, or spousal support judgments, through all of the methods available to enforce the underlying support order. Heather stated that the subcommittee is proposing that we add the following language to a new subsection, subsection (12), of 61.14(6)(d); and also add the language in §724.08:

Interest on child and alimony or spousal support judgments shall be enforceable through all of the methods available to enforce the underlying support order, including contempt, except interest shall not accrue on post judgment interest. Noting that §742.08 would simply state “Interest on support judgments....”

AJ Rohe seconded.

Discussion ensued:

Robert Rodriguez - Why do you need to include double language. It already says it is enforceable.

Heather Apicella: We wanted to ensure we were not eliminated any defenses available.

Robert Rodriguez: Why do you put in the language including contempt if it is already included?

Rob Jones: I can answer that, we had very heated discussions regarding this. There could be some confusion. There needed to be no doubt that the obligation was enforceable by all methods of contempt. Interest would be enforceable by contempt.

Carin Porras: Interest is not going to be compounded. Interest shall not be compounded on accrued interest.

Eric Bruce: One of the remedies is getting a judgment. You are not accruing interest on interest.

Given Vitt there could be confusion about maybe contempt by judgment.

Angel: Because of the history and for other reasons Judges are reticent about letting you use contempt for these judgments. You have to put down the specific intent to use contempt.

Jeff Wasserman: I propose that you delete the term “except,” and place a “.” after the word “contempt”. The second sentence would stand alone, reading “Interest shall not accrue on post judgment interest.”

FRIENDLY AMENDMENT: Place a period after the word “contempt,” gets rid of the word “except” and begin a new sentence with the word “interest.”

Heather Apicella: Friendly Amendment accepted.

AJ Rohe: Can the current clerk system deal with this change.

Eric Bruce: YES. The program that is used by depositories is calculated that way and they would have needed a new program and DOR program does NOT consider interest. Nothing extra will be created.

No more comments. A vote was taken.

All in favor: 25

Against: 0

Abstentions: 1 Chantale Suttle

Motion carried

## **SUPPORT RELATED COMMITTEE FORMS**

Eric Bruce reported on the work of this subcommittee. The subcommittee had come up with a form and condensed it down. The subcommittee ultimately approved a version to the form to perhaps present for consideration.

Norberto Katz gave a brief explanation: The idea of the form first came from a Supreme Court Subcommittee. The form essentially provided a summary of the last order of support entered so all parties will know at a glance what support orders have been entered.

The form proposed by the Supreme Court subcommittee got turned down and voted down by the Bar Rules committee. The Family Law Rules committee will send to Sup. Ct steering committee a copy of the form indicating that it was not approved . Norberto feels that maybe the Supp. Court Steering Committee can present the issue and the form to the Sup. Ct. directly.

Norberto believes that another alternative is for the big Bar Rules Committee and the Family Law section to have a discussion and try to figure out if the form can be revived in some fashion.

Scott Rubin had a conversation with Judge McNeil in which the Judge McNeil expressed how much he appreciated the support from the Section on this issue.

Magistrate Diane Kirigin indicated that the form was an attempt to stomp DOR efforts to have a summary sheet. She believes that the Section has an obligation to get this form out.

#### **REPORT ON ALIMONY GUIDELINES**

No report

#### **REPORT ON LOSS OF PASSPORT**

No report

#### **VENUE CHANGES IN SUPPORT CASES**

Luis Insignares reported that this sub-committee met for the first time. A very interesting discussion ensued during the meeting.

Eric Bruce indicated that there is a gentleman from the Florida Association of Clerk of Courts that is interested in discussing this issue with our brainstorming sub-committee. Eric will arrange for his participation at the next meeting of the sub-committee.

A discussion ensued regarding the possibility of a statewide form that could be created to have obligees disclose the existence of more than one support case in different counties. The merits and logistics of such a form were discussed. Magistrate Diane Kirigin will be looking into this issue some more and will report to the sub-subcommittee at the next meeting.

The consensus from the sub-committee is that the issue of venue changes in support cases is too narrow. The sub-committee identified other potentially important issues that should be added to the efforts of the sub-committee to look into. One is the issue of (1) multiple support orders as a result of support orders being issued in more than one county

A discussion took place about changing the name of the subcommittee to add the additional issues identified other than the issue of venue changes.

Another meeting will be scheduled before the next general meeting of the Support Issues Committee.

## **NEW BUSINESS**

Magistrate Beilly asked the membership about any other issues that the membership may identify-

A concern was raised about the number of minors that are signing paternity acknowledgments in court at least in Miami-Dade. Concerned. Should there be a prohibition against minors signing these forms.

A hearing officer from Miami agreed to chair a sub-committee to look into this issue.

Maria Gonzalez would like to look at the DV statute in terms of child support issues. The language "may" vs. "shall" in establishing child support needs to be addressed. This committee should look at it. Does it belong in DV committee or Support issues committee. Scott thinks it is support issues.

Maria Gonzalez will chair a sub-committee on this issue and report back to the full committee.

A discussion was raised about F.S. 61.30. The statute talks about allocating medical and dental expenses between parents. There is no definition of what constitute medical and dental expenses. That could be determined to be over the counter medications, aspirins, etc. The issue is whether or not this issue should be addressed or not.

Isabel Loomis from Lauderdale and Boca and Rhoda Sokoloff from Ft. Lauderdale will be co-chairs of an exploratory medical dental committee to address this issue

Motion to adjourn: by Eric Bruce

Motion carried

Meeting ended 3:02 pm.